देने की कोशिश की है। मेरी समझ में गुरुदास दासगुप्त जी ने जो सवाल उठाए थे, मोटेतौर पर मने उनके सवालों को कवर किया है। यह सभी के लिए चिंता का विषय है। मैं एक प्वाइन्ट मेन्शन करना चाहता हूं। माननीय सदस्य ने सेफ्टी आडिट की बात कही है। अक्तूबर महीने में ही, नवम्बर से सेफ्टी आडिट लागू कराने के लिए हमने फैसला ले लिया है और सेफ्टी आडिट करने के लिए आदेश भी निर्गत किए जा चुके हैं। जोनल लेवल पर और रेलवे बोर्ड के स्तर पर भी सेफ्टी आडिट टीम बहाल की जा सकती है। इस बारे में पहले ही फैसला लिया जा चुका है। मेन्टीनेन्स और उस पर रेस्पांसिबिलिटी नीचे से ऊपर तक फिक्स की जा सके, इसके लिए गाइडलाइन्स इश्यू किये जा चुके हैं।

श्रीमती कमला सिन्हा : क्या टाइम फ्रेम बना है?

श्री नीतीश कुमार : जी, हां टाइम फ्रेम है। कम है। इसके अलावा मेंटिनेंस 4.00 P.M. के लिए जो नार्म्स हो सकते हैं उनको अप-डेट करके, उनको अभी इसी वर्ष अगस्त 1998 में इश्यू किया है। सारी कार्यवाहियां जारी हैं। लेकिन इसमें जो कुछ हुआ है वह दुर्भाग्यपूर्ण है। इसका कोई एक्सक्यूज नहीं है। जब तक हम एक्सीडेंट को बिल्कुल समाप्त नहीं कर लेते हैं, जब तक हम फल्योर्स को समाप्त नहीं कर लेते हैं तब तक किसी के लिए यह चैन की बात नहीं हो सकती है। जो स्थिति थी, वह मैंने सदन के सामने रखी है। म माननीय सदस्यों को धन्यवाद देना चाहता हूं जो उन्होंने इस गहन मुद्दे पर सदन का ध्यान आकृष्ट किया। यहां पर जो भी सवाल उठाए गए हैं यह हमारे लिए सर्वोच्च प्राथमिकता के विषय होंगे और इसके लिए जितनी राशि की जरुरत होगी वह मुहैया कराई जाएगी और इसके लिए सारे कदम उठाए जायेंगे। रिस्पांसबिलेटी, ऊपर तक जहां कहीं भी जाएगी किसी को बख्शा नहीं जाएगा। इस संदर्भ में मुझे यही कहना है।

THE DEPUTY CHAIRMAN: Now, statement by Minister. (*Interruptions*) Mr. Minister, there is a statement by Mr. Khurana. Do you have anything to say?

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS, MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION (SHRI RAM NAIK): Madam, on reconsideration, we have decided not to make the proposed statement because it mainly pertains to the Lok Sabha Members. So, we are not making the statement.

THE DEPUTY CHAIRMAN: Okay, ... (*Interruptions*) ...

THE PATENTS (AMENDMENT) BILL, 1998

THE MINISTER OF INDUSTRY (SHRI SIKANDER BAKHT): Madam, I beg to move.. (*Interruptions*) ...

DR. BIPLAB DASGUPTA (West Bangal): Madam, before we go to the next item, you will recall, we went to the hon. Chairman and mentioned to him that majority of the parties in this House are opposed to introduction of the Bill on patents. He told us that those object to this should be given some opportunity to explain to the House why we object to the introduction of the Bill. If you permit me, Madam, I will make a few points. (*Interruptions*).

SHRI PRANAB MUKERJEE (West Bengal): Madam, I am on a point of order. (*Interruptions*)

THE DEPUTY CHAIRMAN: Biplab babu, let me hear the point of order. (*Interruptions*)

SHRI PRANAB MUKHERJEE: Madam, I am on a point of order under rule 67 of the Rules of Procedure and Conduct of Business. It says: "When a Minister moves a motion for introduction

of a Bill, if any Member opposes that Bill, it is the discretion of the Chairman to allow the Member concerned to make a brief statement why the Member is opposing the Bill and a brief statement made by the Minister why he is introducing the Bill." Rule 67 clearly provides that. With regard to what transpired between the Members and the Chairman, unless a definitive instruction comes from the Chairman and the communicated to the House, through the Chair, it has no relevance. *(Interruptions)* Secondly, I would like to draw your attention to page 494 of Kaul and Shakdhar, 4th Edition: "By convention the motion for introduction is not ordinarily opposed. But, there have been several instances when the motion for introduction of the Government Bill was apposed in the House." Instances have been cited. But, it has been clearly laid down that if a Member wants to oppose a Bill to be introduced by a Minister, the Member concerned must give notice to the Chairman. Not only that, there are instances that when a notice in Lok Sabha was received at 10.25 a.m. that notice was ignored becaause as per the practice notices must be given at ten. I would like to know from the Chair as to which Member gave notice at what point of time before because it should be communicated to the House. Rule 67 is clearly indicative that it is for only one Member, unless the question is relating to legislative competence. And the other Members are allowed to participate in a full discussion if a question of legislative competence arises. So far as this Bill is concerned, there is no question of legislative competence because it is an amendment to the Act passed in 1970. Madam, this is my submission for your consideration. ... *(Interruptions)* ...

THE DEPUTY CHAIRMAN: Sit down, please. ... *(Interruptions)* .... Just one minute. ...*(Interruptions)* ... Please sit down. ...*(Interruptions)*.... Mr. Virumbi, please sit down. ...*(Interruptions)*... A Member has raised a point of order. Mr. Biplab Dasgupta raised some point on which Mr. Pranab Mukherjee raised a point of order and quoted from two books—Kaul and Shakdher and the Rules of Procedure and Conduct of Business. I have three notices before me—one by Mr. Ashok Mitra, received at 10 o' clock and the other two were received at 11.55 and 3.20 respectively. Mr. Ashok Mitra has written, "that I shall be grateful if I am allowed to raise some points before leave is granted to the Minister for Industries to introduce a Bill to further amend the Patents Act, 1970." Mr. Ashok Mitra did it at 10 of clock. I will allow Mr. Mitra to speak. ... *(Interruptions)*... Let the Minister first get up, and then you can speak. ....*(Interruptions)*...

SHRI MD. SALIM (West Bengal): Madam, a point of order has been raised by Mr. Mukherjee. ..*(Interruptions)*... We have also to say something in this regard. ...*(Interruptions)* ... We too have a point of order. ..*(Interruptions)*.

THE DEPUTY CHAIRMAN: Your notice did not reach at ten. *(Interruptions)*..... You do not have to raise your voice. Everybody can hear you. I can hear you. My ears are still.... *(Interruptions)*... You do not have to raise your voice. ..*(Interruptions)*.. Just one second. Mr. Mitra gave it at ten. ... *(Interruptions)*.... At what time did you give it? ...*(Interruptions)*..

SHRI GURUDAS DAS GUPTA (West Bengal): Madam, let me make my submission. ..*(Interruptions)*...

THE DEPUTY CHAIRMAN: First-come—first-served is the rule. ...*(Interruption)*... Now, let me deal with one situation. ...*(Interruptions)*... Let the Minister first get up and introduce his Bill. ...*(Interruptions)*... He has not yet got up to introduce the Bill. ..*(Interruptions)*...You are jumping the bus.

SHRI ASHOK MITRA (West Bengal): Madam, before he introduces the Bill, I have to say something. .... *(Interruptions)*.....

THE DEPUTY CHAIRMAN: Let him at least move the motion. ..*(Interruptions)*...

SHRI MD. SALIM: He has sought the permission of the Chair and the rule says that before you ask the Minister to move the motion. .... *(Interruptions)*... We have some basic objections to the motion itself. ...*(Interruptions)*...

THE DEPUTY CHAIRMAN: Mr. Salim, just one second. .(*Interruptions*). I know you are very competent with regard to rules and the rules book. But until and unless the listed busises is taken up and he gets up and introduces the Bill ...(*Interruptions*)...Then only can you get up and oppose him. If he does not get up. and suppose, he walks out on the House, then whom are you opposing? ...(*Interruptions*)... Mr. Minister.

SHRI SIKANDER BAKHT: Madam, I beg to move for leave to introduce a Bill further to amend the Patents Act, 1970.

The question was proposed.

...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Order, please. ...(*Interruptions*)... The Minister cannot introduce the Bill till the Chair asks him to do so. ..(*Interruptions*).. This House runs on proper rails.. (*Interruptions*)... It cannot be derailed.. ..(*Interruptions*)... Now, Shri Ashok Mitra.

SHRI ASHOK MITRA: Madam, the Bill which the Minister is trying to more reletes to a very serious matter. It affects the sovereignty of this nation. I have very great personal regard for the Minister of Industry. I am an agnostic and even then I would say that he is a God's man. I know him for the last 25 years. I would still say that. But, I earnestly request him to listen carefully to what I am going to say because these are the issues which affett each one of the hundred million people who belong to this country. Now, I oppose this Bill on procedural grounds, on constitutional grounds and finally on grounds of moral principle. We, the Members of the Rajya Sabha received copies of the Bill only yesterday morning along with the papers whereas the Members of the Lok Sabha got copies of the Bill at least one week before. How come? Then, by offering a copy of the Bill yesterday, he wants us to accept or approve the consideration of the Bill today; why don't you go to the Lok Sabha? Because, procedurally already drawn a conclusion. This is something which you ought not to have done.

A much greater procedural issue is that a Money Bill comes first to the Lok Sabha and only when it is approved, it comes to the Rajya Sabha. Now, Madam, I argue that this is a Money Bill. Why do I say so? As a consequence of the coming into effect of this amendment, in caase is passed, the income of the Indians will get reduced. The income of the Indians will shrink and the income of the foreigners will increase. And if the income of the Indjans shrinks, then the income of the Government of India will also shrink. Therefore, this Bill has a consequence for the Budget of the Government of India. Procedurally, it is a Money Bill. Therefore, I would earnestly request the Minister that he should first check with the Attorney-Genral before he comes here to introduce it. Whoever is your legal authority, you kindly consult.

Now, I go to the more substanstive issues; the constitutional issues. This Bill arises out of the signing of the Marrakesh Treaty by the Government, in April, 1994. Even this amendment, in effect, means that certain changes will have to be made which will affect not just the jurisdiction of the Government of India, but the jurisdiction of the State Governments. You are essentially going to give exclusivee marketing rights to foreign companies. In which areas? In pharmaceuticals and agro-chemicals. Pharmaceuticals affect public health. Agro-chemicals affect food production, seeds, etc. And these are things which affect the people of the country. These are areas in which the State Governments are very specifically involved. Therefore, these are areas which belong to the State Governments. At the same time, you know, normally you can say, 'Oh' the Government of India signed an international treaty, and what do the States have to do about it.' But this particular Treaty, that is the Marrakesh Treaty is a unique Treaty. No other foreign treaty affects our internal system of production, our internal system of pricing and our

Bill gives us directives. An external agency will direct us as to how much we can produce or what; how much we can offer on what commodity. This Treaty instructs us as to what should be the area of responsibility on the part of the State Governments.

THE DEPUTY CHAIRMAN: Mr. Ashok Mitra, I must bring this to your notice that we are not discussing the merit of the Bill. (*Interruptions*), No. (*Interruptions*). You can be very brief about your point. (*Interruptions*). But you cannot have a long discussion, because the Bill has not yet been introduced.

SHRI ASHOK MITRA: Madam, I will not elaborate. But this is very important which I want to share with the House that the Chief Minister are very, very concerned over the Bill which is proposed to be introduced in the House without consultations with them. Already five Chief Ministers wrote to the Prime Minister on this matter. They are the Chief Ministers of important States—the Chief of Kerala, the Chief Minister of Tamil Nadu, the Chief Minister of West Bangal, the Chief Minister of Tripura. My information is that more such letters are going to come from other Chief Ministers. They are making a very simple civilised request to the Government on what the Government is proposing to do. This Bill affects our jurisdiction. These are the areas which we are concerned with. Before you proceed with this piece of legislation in Parliament, kindly convene a meeting of all the Chief Ministers or a meeting of the National Developmest council or a meeting of the Inter-State Council and discuss with them. I would urgently appeal to the Government to do it. Those are not parliamentary games which we are playing. There are very strong emotions on this Bill and its contents which is why this could not be passed for the past five years. I know that even within the principal political parties of this country, there is a very wide division of views on the contents of the Bill. We do not want to divide the country. (*Time Bill rings*). Yoh don t want to bulldoze a legislation which will be opposed by the people of Assam by the people of Tripura, by the people of West Bengal, by the people of Tamil Nadu, by the people of Kerala. And let me add that 200 Legislators of Andhra Pradesh who constitute a majority in the Assembly.

THE DEPUTY CHAIRMAN: Mr. Ashok Mitra, I know that you are a very good orator. You can put your point very well.

SHRI ASHOK MITRA: I am just learning at your feet.

THE DEPUTY CHAIRMAN: When the Bill is admitted, we will give you enough time to argue you case. ..(*Interruptions*)... It is my request, please sit down.

SHRI MD. SALIM: Madam, I am a point of order.

THE DEPUTY CHAIRMAN: What is your point of order?

SHRI MD. SALIM: Madam, according to Rule 67, if a Member objects to the introduction of a Bill or on the question of legislative competence—which my learned friend, Mr. Pranab Mukherjee has also poisted out—then, the contents of the Bill cannot be discussed. But the general principle of the Bill can be discussed. Therefore, he should be given a chance to discuss it. ..(*Interruptions*). I read out the relevant ruling ...(*Interruptions*)..

THE DEPUTY CHAIRMAN: If there is so much agitation on its introduction and non-introduction, I would be very thankful for the sake of the Chair, if I am allowed to run it properly and to hear the argument. When a Member makes a point, let other Members not give counter-argument. If you feel that you can handle it, then, there is no need for the Chair. If you fell that the Chair should handle it, then allow me to haar what the Member is saying. If I

don't hear, I cannot give any ruling. Okay? ..(*Interruptions*).. You have already spoken.

SHRI ASHOK MITRA: Madam, I will finish in two minutes. I know, Madam, that you constitute a milk of kindneess. I want to make an additional point. This is the report of the Parliamentary Standing Committee.

THE DEPUTY CHAIRMAN: Are you speaking on the competence of this House? What is competente? The authority of this House is to legislate this Bill. If this House is not competent enough to legislate such a legislation, then only, there can be a full-fledged discussion. As I heard you, you are talking about the merits of the Bill. Now what is the legislative point? .. (*Interruptions*) .. Mr. Ashok Mitra, Please. ..(*Interruptions*). Mr. Malhotra, I had requested you to please keep quiet because I cannot hear what the Member is saying. Please don't reply to anybody. Mr. Ashok Mitra, I would like to know what your points are on the non-competence of the Rajya Sabha, as far as legislating this Bill is concerned.

SHRI ASHOK MITRA: This is why I was trying to quote from the report of the Standing Committee on Commerce. This Committee consisted of 45 Members representing the enire rasge of opinions in the House and in the Lok Sabha. And they have reached at a unanimous agreement. They have made a recommendation that before such a Bill is introduced in the House or in the other House, it should be discussed in great details with the State Governments and with experts outside the two Houses. This is a substantive issue. Our own people, we ourselves, the entire entity of Parliament, were of the unanimous view that this is such a delicate issue that this must be discussed before we have a piece of legislation in this country on this. Madam, I cannot resist the temptation of chipping a little bit of bant in my own support. One newspaper in the country had the tenacity to say that this report should be compulsory for reading by every political party, every Member of Parliament and every bureaucrat. It may have some merit. All of us are agreed. From the BJP to the Congress, all of us are agreed on this.

The third point—and this is my final point—.....

THE DEPUTY CHAIRMAN: You have made many points. How could it be the third now? There must be some calculation.

SHRI ASHOK MITRA: This is the very last point. This morning, we heard from the Prime Minister and the External Affairs Minister about the national security and about the national dignity and honour. And there was also a reference that there should be no deadline as far as meeting the international pressure is concerned. One of the purported reasons for moving this piece of legislation is supposed to be to meet the deadline set by the World Trade Organisation. Why should you... (*time-bell* rings)... The Americans have said about the World Trade Organisation—they have gone on record—that if there is a clash, a conflict, between their legislation and the WTO's rules, their legislation will prevail, forget about the WTO. I will take the cue from what the Prime Minister and the External Affairs Minister said in the morning.

THE DEPUTY CHAIRMAN: Thank you very much.

SHRI ASHOK MITRA: Forget about the socalled deadline business. It is not important. What is important is to ensure the national security, including the national economic seturity; what is important is not to let imperialism come back to the country through the backdoors.

SHRI GURUDAS DAS GUPTA: Madam.... (*Interruptions*).

THE DEPUTY CHAIRMAN: There is no discussion. (*Interruptions*).

SHRI MD. SALIM: Now, there is an issue... (*Interruptions*).

THE DEPUTY CHAIRMAN: Mr. Gurudas, the thing is, as referred to by

Mr. Pranab Mukherjee, according to the rule, at the stage of introruction there are only two reasons. There are only two occasions. We are not discussing the merit of the Bill though Mr. Ashok Mitra, in great length, discussed also the merit of the Bill. Anyway, that is his point. If this House is not competent enough to pass this piece of legislation, nobody has given a single argument. So, that point is not there. Normally, we do not allow more than one person to speak on it and that too, with the time-limit as 10 o'clock. It is very clerly mentioned in Kaul and Shakdher. But there are instances when, on special considerations, the Chair allowed one person more. So, I will allow Mr. Viduthalai Virumbi to make his point. (*Interruptions*). Let him first speak.

SHRI MD. SALIM: We are on a point of order on the question of the legislative competence. (*Interruptions*).

THE DEPUTY CHAIRMAN: You could have done it at that point of time when you knew that the Bill... (*Interruption*). Just a minute Mr. Virumbi. Let me clear his doubt. When the Bill was listed to be taken up today, if you were doubtful about the competence of your own House to legislate it in this House, you could have given notice before 10 o'clock because that is the pre-requisite of it. (*Interruption*). Let me complete. As a special consideration of your sentiments, I am allowing Mr. Virumbi because he gave it at 11 or something. First come, first served.

SHRI MD. SALIM: Madam, there is a precedent in this respect when after introduction, during consideration and discussion on a Bill in the Lok Sabha, the question of legislative competence had arisen and it was discussed. (*Interruptions*).

THE DEPUTY CHAIRMAN: Okay. If at any point of time, during the discussion on the Bill, the question of legislative competence of our House arises, we will definitely take that into account. (*Interruptions*).

SHRI PRANAB MUKHERJEE: Madam, I would like to draw your attention to Entry 49, List I—Union List of the Seventh Schedule, where Parliament can make law. Entry 49 says: "Patents, inventions and designs; copyright; trademarks and merchandise marks." This is the legislative competence of Parliament. The present Bill is an amendment to the Act of 1970 which was passed by Parliament. This is not an original legislation. This is an amending Bill. Therefore, the Parliament has legislative competence, as per Entry 49, List I of the Seventh Schedule. (*Interruptions*).

SHRI MD. SALIM: Madam, I am grateful to Mr. Pranab Mukherjee that he has pointed out this thing. But the provincial autonomy is very dear to our heart, more than the Patents Bill. Madam, the question of provincial autonomy had come up even before the Constitution of India was framed. It was raised in the Central Legislative Assembly. Now, I am drawing your attention to List II—State List of the Seventh Schedule.

THE DEPUTY CHAIRMAN: To which page are you referring?

SHRI MD. SALIM: Madam, I am referring to page 317. But the Entry is in the next page, that is, page No. 318. I would like to refer to Entry 6, List II—State List of the Seventh Schedule. It says: "Public health and sanitation; hospitals and dispensaries." Now, I come to Entry 14. It says: "Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases." So, in the light of the submissions of Shri Ashok Mitra and in the light of the report of the Standing Committee, this Bill will encroach upon the provincial autonomy—of the States. Though the Entry is there in the Union List, agricultural education and research, protection against pests and prevention of plant diseases as well as—public health are involved in it. The question of the exclusive marketing right of the pharmaceuticals comes under the jurisdiction of the State Governments because public health is a State subject. So, if this Bill is allowed to be discussed here and if it is passed,

it will be an encroachment on the autonomy of the States. As far as the question of provinciaal autonomy is concerned, from 1937 to 1949, and thereafter, a heries of rulings have been given stating that this House should not encroach upon the provincial auonomy because of the federal structure.
(*Interruptions*)

THE DEPUTY CHAIRMAN: Mr. Md. Salim, I am not convinced with pour argumest. There are so many legislations which are overlapping each other between the States and the Centre. That does not mean the competence of the Central Government can be overlapped by the competence of the State Government. So, they are independent.

SHRI MD. SALIM: Madam, there is a ruling also. The thair should not identify itself with any view when the question of legislative competence on the issue of provincial autonomy comes. They have to take into considertton.. (*Interruptions*).

THE DEPUTY CHAIRMAN: Mr. Salim, don t argu. I will put the motion to vote. If you want Mr. Virumbi to speak, all right. Otherwise, I will put the motion to vote.

SHRI MD. SALIM: We want a discussion.

THE DEPUTY CHAIRMAN: I am not allowing any discussion.

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Madam, at the very outset, I would like to say that the Indian Government is not a unitary Government. The unity and integrity of this lounrry lies in the federal tharacter of our system. This is the basic thing. From here itself, I will proceed and give my argument. Madam, during the time of the United Front Government, the then industry Minister consulted a panel of parliamentarians connected with patents. The then Prime Minister, Mr. Deve Goda, and the subsequent Prime Minister, Mr. Gujral, had meetings with those Members. At that time, the vociferous opponents of the Bill were not the Congress leaders but BJP leaders like hon. Murli Manohar Joshi as well as hon. George Fernandes. I want to know whether they have changed their views or whether they are gogged (*Interruptions*).

SHRI M. VENKAIAH NAIDU (Karnataka): Madam, I am on a point of order.

THE DEPUTY CHAIRMAN: What is the point of order?

SHRI S. VIDUTHALAI VIRUMBE: Madam, after I finish, he should be allowed. .. (*Interruptions*)...

SHRI M. VENKAIAH NAIDU: Madam, I am on a point of order.

SHRI S. VIDUTHALAI VIRUMBI: I am not yielding. ..(*Interruptions*)....I am not yielding. I have not finished.

SHRI M. VENKAIAH NAIDU: Madam, I am on a point of order. ...(*Interruptions*)... I am on a point of order.

SHRI S. VIDUTHALAI VIRUMBI: Let me complete my point. Then you can spaek. ..(*Interruptions*)...I am just coming to the point. Madam, let him speak only after I finish my point. ... (*Interruptions*).

THE DEPUTY CHAIRMAN: Mr. Virumbi, if I give you permission,... (*Interruptions*)

SHRI M. VENKAIAH NAIDU: Madam, I am on a point of order. ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Mr. Virumbi, you know how many times Mr. Md. Salim interrupted on a point of order. Now if a Member wants to raise a point of order,...

SHRI S. VIDUTHALAI VIRUMBI: Madam, I will abide by your decision, whatever it is.

THE DEPUTY CHAIRMAN: You please abide by my decision. I am so happy for your cooperation. Let him raise his point of order. I am there to protect your right also as I am there to protect his right.

SHRI M. VENKAIAH NAIDU: Madam, under Rule 67, .. (*Interruptions*) I am not asking Virumbiji to follow my order. ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: I think I am the competent authority to deal with it. ...(*Interruptions*)...Please sit down, Mr. Jibon Roy.

SHRI JIBON ROY (West Bangal): I want to know the difference between *swadeshi* and *videshi*. I want to learn from him.

SHRI M. VENKAIAH NAIDU: You are going to be at the mercy of *videshi* finally. Don't be hasty. You better listen. ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: Mr. Jibon Roy, it is not only for your satisfaction, but also for the satisfaction of the House, and let me deal with it.... ...(*Interruptions*)...

बठिए, केन्द्रों की बात अभी बाद में हो रही है ।

THE DEPUTY CHAIRMAN: Please sit down. You are confusing.... (*Interruptions*)...

SHRI JIBON ROY: Madam, they had opposed the Patents Bill last time. Now, under what rule, are they preaching the country? And they fall on the ...(*Interruptions*)....

THE DEPUTY CHAIRMAN: Please, I don't want anybody to interrupt him.

SHRI M. VENKAIAH NAIDU: Madam, he feels that he has a lot of freedom to say whatever he wats to say at irrelevant times.

I refer to Rule 67 of the Rules of Procedure and Conduct of Business in the Council of States. The hon. Deputy Chairman was kind enough to refer to that Rule: "If a motion for deave to introduce a Bill is opposed, the Chairman, after permitting if he thinks fit, a brief explanatory statement from the Member who moves and from the Member who opposes the motion, may, without further debate, put the question." Madam, I would like to draw the attention of the Chair and of the House with particular reference to line 2 where it is said: "a brief explanatory statement . With regard to their objection, if they have a brief explasatory statement, nobody need have an objection. If he wants to make political statements and speeches at this stage of opposing the introduction, then he goes beyond the Rules... (*Interruptions*)...

SHRI S. VIDUTHALAI VIRUMBI: I am making only a very brief point,... ...(*Interruptions*)...

SHRI M. VENKAIAH NAIDU: He is going beyond the Rules. .. (*Interruptions*)....

THE DEPUTY CHAIRMAN: I will explain to him. Why are you worried?

SHRI M. VENKAIAH NAIDU: The Deputy Chairman was kind enough to allow him, even though he has given notice at a later stage. I am not going into the merits of the issue. Merits can be discussed and debated separately. A rule was quoted, but from the other side also they could not make out any issue. With regard to part 2 of Rule 67, where it is said, if you are questioning the competence of the Rajya Sabha or the Parliament with regard to making of legislation, that is altogether a different matter, a full, detailed discussion can be allowed. But, here, we are concerned with it only to the extent of introduction under part one of Rule 67. I request the Chair to direct the Member to confine himself to making a brief explanation, rather than making a political statement.

THE DEPUTY CHAIRMAN: He will do so because I have requested, and Mr. Virumbi is generally very brief. So, exceptionally brief he could be today! .. ...(*Interruptions*)...

SHRI S. VIDUTHALAI VIRUMBI: Madam, I would like to know from the hon. Minister whether he has consulted those Members. ...(*Interruptions*)...

THE DEPUTY CHAIRMAN: If you are interrupting, I will not permit him and I will put it to vote. (*Interruptions*)

...I will put it to vote, if you don't allow him to speak. (*Interruptions*)...

SHRI S. VIDUTHALAI VIRUMBI: Madam, I ask the hon. Minister, through you, whether he has consulted the leaders of the Opposition parties. The implications of the proposed amendment to the Patents Act are wide-ranging and it will affect the interests of the States. According to our Constitution, the State Governments have a major responsibility in the sphere of agriculture and public health. It is, therefore, important that any piece of legislation giving exclusive marketing rights in pharmaceutical and agro-chemical products to foreign firms must be closely examined by the State Governments. Therefore, I would like to know whether he has discussed it with the State Governments either in the Inter-State Council or in the National Development Council or in the Chief Ministers' Conference. Without having any interaction with the State Governments, it is going to be introduce. They are going to be affected. Health is a State subject. Agriculture is a State subject. The grievance of those people who are going to be affected has to be redressed by the State Governments. When it is so, if the Bill is introduced without consulting the State Governments, it is against the federal principles. When it is against the federal principles, it is against the Constitution. Therefore, this Government doesn't have any legislative competence to introduce this Bill and I strongly oppose it.

THE DEPUTY CHAIRMAN: Mr. Gurudas Das Gupta, you have sent your notice at 3 o'clock. I will give you just one minute.

SHRI GURUDAS DAS GUPTA: Madam, I oppose the introduction of the Bill, firstly, on the ground that it interferes with and infringes upon the fundamental rights of the citizens. According to the law of the country, to carry on trade and business is a fundamental right of the citizens. If this Bill is passed, it gives the exclusive marketng rights in respect of some trade to the monopoly concerns to the foreign firms. To that extent the fundamental right of a citizen to carry on trade and business, in respect of which the exclusive marketing right is given, will be interfered with. Therefore, I oppose this Bill on the ground of infringement of fundamental rights of the citizens of the country.

Secondly, I oppose the introduction of this Bill because, at a particular time, this Bill was referred to a Select Committee. The Select Committee could not complete its discussion because the other House was dissolved. The dissolution of a perticular House interfered with the work of the Select Committee. The work of the Select Committee, therefore, remains inconclusive. Since, at a particular point of time, when both the Houses were competent, the issue was referred as a Select Committee, since there is no suggestion for sending it to a Select Committee, I think the particuar system is being interfered with. Therefore, I oppose the introduction of this Bill.

Thirdly, I oppose the introduction of this Bill because this Bill interferes with the federal character of the Constitution. It has been made amply clear that the rights of the States have been particularly delineated in the provisions of the Constitution. If the Bill is passed to that extent the rights of the States will be curtailed and interfered with. Therefore, this Bill is *ultra vires* and against the Constitution. I oppose the introduction of this Bill.

I oppose the introduction of this Bill because the Parliament is being bulldozed. The system is being bulldozed. Madam, if, I may be permitted to say, not only the Parliacent is being bulldozed but also the political parties are being bulldozed under the threat of resignation of the Ministers. (*Interruptions*)....

THE DEPUTY CHAIRMAN: You substantiate it. (*Interruptions*)... Gurudasji, just one minute. (*Interruptions*)...

SHRI GURUDAS DAS GUPTA: Who is bulldozing the party? (*Interruptions*) It is not clear. (*Interruptions*).

THE DEPUTY CHAIRMAN: No ...*(Interruptions)*...

SHRI GURUDAS DAS GUPTA: I have not completed. *(Interruptions)*...

THE DEPUTY CHAIRMAN: Okay now. You have made your point. *(Interruptions)*....

SHRI GURUDAS DAS GUPTA: Madam, I have not completed. *Interruptions)*.

THE DEPUTY CHAIRMAN: I don't know what is going on. *(Interruptions)*. I am not allowing. *(Interruptions)* ... I am not allowing. *(Interruptions)*..Please sit down. *(Interruptions)*. Nothing will go on record. Already, there is so much noise in the House.

SHRI GURUDAS DAS GUPTA: Madam, I have not concluded.

THE DEPUTY CHAIRMAN: Mr. Gupta, you may not have completed. It is good that you did not complete because you did not substantiate that somebody is resigning...

SHRI GURUDAS DAS GUPTA: Madam, I am substantiating... *(Interruptions)*.

THE DEPUTY CHAIRMAN: I don't want irresponsible statements.

SHRI GURUDAS DAS GUPTA: Madam, I am saying this with full sense of sponsibility. *(Interruptions)*.

THE DEPUTY CHAIRMAN: Mr. Jibon Roy, please sit down.

SHRI GURUDAS DAS GUPTA: Madam, I am complainisg to you that the freedom of the hon. Members of this House to express their opinions freely is being gagged under the threat of resignation of a Minister. *(Interruptions)*.

THE DEPUTY CHAIRMAN: Now I am not allowing anybody. *(Interruptions)*. I am putting the motion to vote. *(Interruptions)*. The questions is:

"That leave be granted to introduce a Bill further to amend the Patents Act, 1970."

The motion was adopted.

SHRI SIKANDER BAKTH: Madam I introduce the Bill. *(Interruptions)*.

THE DEPUTY CHAIRMAN: We will now... *(Interruptions)*. Go back to your seats. That is not the way. *(Interruptions)*. What is this going on? *(Interruptions)*. Are you followisg the rules? Go back to your seats. *(Interruptions)*. If you don't go back, I will adjourn the House. I adjourn the House till 11 a.m tomorrow.

The House then adjourned at forty-three minutes past four of the clock, till eleven of the clock on Thursday, 17th December, 1998.